THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.16846 OF 2007

DATED 13th AUGUST 2007

BETWEEN:

Muktha Bai

… Petitioner

AND

The Government of Andhra Pradesh, rep.by its Secretary, Secretariat, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16846 OF 2007

ORDER:

The petitioner is allegedly landless and poor person. He is in possession of Acs.4.38 guntas in survey No.53/KK situated at Yenka Village, Utnoor Mandal in Adilabad District. He also alleged that his father was in possession of land from 1954 to 1968, and thereafter petitioner continued the possession. In 1992, the petitioner allegedly came to know that third respondent - Tahsildar, Utnoor; initiated action under A.P.Land Encroachment Act, 1905, and passed orders on 15.05.1989 for evicting her. She then filed writ petition being W.P.No.15971 of 1992. The order of eviction was set aside by this Court on 16.12.2002 giving liberty to petitioner to submit explanation to show cause notice, dated 09.05.1989. The petitioner submitted explanation on 11.01.2003. The third respondent then dropped action. Again another notice was issued on 31.12.2004 under Loani Rules, 1950. This was set aside by this Court in W.P.No.1044 of 2005, dated 14.12.2006. Again third respondent issued impugned notice, dated 20.07.2007 in Form-II under Rule 3 of A.P.Assigned Lands (Prohibition of Transfers) Rules, 2007. In the said notice, petitioner is asked to show cause as to why she should not be summarily evicted and land in his possession is resumed for contravention of sub-section (2) of Section 3 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity). In assailing the impugned show cause notice, learned counsel for petitioner submits that third respondent issued notice without jurisdiction and therefore, it is void. He would contend that the petitioner is land less poor person within the meaning of Section 2(3) of the Act, and therefore, third respondent cannot dispossess the petitioner.

It is now well settled that against show cause notice even if it is issued by authority without jurisdiction, a writ petition would not lie (See **Special Director v Mohd.Ghulam Ghouse**[1]). A person aggrieved by the show cause notice has to raise all objections before the authority and writ petition is not appropriate remedy. The petitioner may approach third respondent and submit explanation.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

13.08.2007.
pln

[1] (2004) 3 SCC 440